

SEC. 9302. HIGHER EDUCATION MODERNIZATION, RENOVATION, AND REPAIR.

(a) Purpose- Grants awarded under this section shall be for the purpose of modernizing, renovating, and repairing institution of higher education facilities that are primarily used for instruction, research, or student housing.

(b) Grants to State Higher Education Agencies-

(1) FORMULA- From the amounts appropriated to carry out this section, the Secretary of Education shall allocate funds to State higher education agencies based on the number of students attending institutions of higher education, with the State higher education agency in each State receiving an amount that is in proportion to the number of full-time equivalent undergraduate students attending institutions of higher education in such State for the most recent fiscal year for which there are data available, relative to the total number of full-time equivalent undergraduate students attending institutions of higher education in all States for such fiscal year.

(2) APPLICATION- To be eligible to receive an allocation from the Secretary under paragraph (1), a State higher education agency shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(3) REALLOCATION- Amounts allocated to a State higher education agency under this section that are not obligated by such agency within 6 months of the date the agency receives such amounts shall be returned to the Secretary, and the Secretary shall reallocate such amounts to State higher education agencies in other States on the same basis as the original allocations under paragraph (1)(B).

(4) ADMINISTRATION AND OVERSIGHT EXPENSES- From the amounts appropriated to carry out this section, not more than \$6,000,000 shall be available to the Secretary for administrative and oversight expenses related to carrying out this section.

(c) Use of Grants by State Higher Education Agencies-

(1) SUBGRANTS TO INSTITUTIONS OF HIGHER EDUCATION-

(A) IN GENERAL- Except as provided in paragraph (2), each State higher education agency receiving an allocation under subsection (b)(1) shall use the amount allocated to award subgrants to institutions of higher education within the State to carry out projects in accordance with subsection (d)(1).

(B) SUBGRANT AWARD ALLOCATION- A State higher education agency shall award subgrants to institutions of higher education under this section based on the demonstrated need of each institution for facility modernization, renovation, and repair.

(C) PRIORITY CONSIDERATIONS- In awarding subgrants under this section, each State higher education agency shall give priority consideration to institutions of higher education with any of the following characteristics:

(i) The institution is eligible for Federal assistance under title III or title V of the Higher Education Act of 1965.

(ii) The institution was impacted by a major disaster or emergency declared by the President (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2))), including an institution affected by a Gulf hurricane disaster, as such term is defined in section 824(g)(1) of the Higher Education Act of 1965 (20 U.S.C. 11611-3(g)(1)).

(iii) The institution demonstrates that the proposed project or projects to be carried out with a subgrant under this section will increase the energy efficiency of the institution's facilities and comply with the LEED Green Building Rating System.

(2) ADMINISTRATIVE AND OVERSIGHT EXPENSES- Of the allocation amount received under subsection (b)(1), a State higher education agency may reserve not more than 5 percent of such amount, or \$500,000, whichever is less, for administrative and oversight expenses related to carrying out this section.

(d) Use of Subgrants by Institutions of Higher Education-

(1) PERMISSIBLE USES OF FUNDS- An institution of higher education receiving a subgrant under this section shall use such subgrant to modernize, renovate, or repair facilities of the institution that are primarily used for instruction, research, or student housing, which may include any of the following:

(A) Repair, replacement, or installation of roofs, electrical wiring, plumbing systems, sewage systems, or lighting systems.

(B) Repair, replacement, or installation of heating, ventilation, or air conditioning systems (including insulation).

(C) Compliance with fire and safety codes, including--

(i) professional installation of fire or life safety alarms; and

(ii) modernizations, renovations, and repairs that ensure that the institution's facilities are prepared for emergencies, such as improving building infrastructure to accommodate security measures.

(D) Retrofitting necessary to increase the energy efficiency of the institution's facilities.

(E) Renovations to the institution's facilities necessary to comply with accessibility requirements in the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(F) Abatement or removal of asbestos from the institution's facilities.

(G) Modernization, renovation, and repair relating to improving science and engineering laboratories, libraries, and instructional facilities.

(H) Upgrading or installation of educational technology infrastructure.

(I) Installation or upgrading of renewable energy generation and heating systems, including solar, photovoltaic, wind, biomass (including wood pellet), or geothermal systems, or components of such systems.

(J) Other modernization, renovation, or repair projects that are primarily for instruction, research, or student housing.

(2) GREEN SCHOOL REQUIREMENT- An institution of higher education receiving a subgrant under this section shall use not less than 25 percent of such subgrant to carry out projects for modernization, renovation, or repair that are certified, verified, or consistent with the applicable provisions of--

(A) the LEED Green Building Rating System;

(B) Energy Star;

(C) the CHPS Criteria;

(D) Green Globes; or

(E) an equivalent program adopted by the State or the State higher education agency.

(3) PROHIBITED USES OF FUNDS- No funds awarded under this section may be used for--

(A) the maintenance of systems, equipment, or facilities, including maintenance associated with any permissible uses of funds described in paragraph (1);

(B) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;

(C) modernization, renovation, or repair of facilities--

(i) used for sectarian instruction, religious worship, or a school or department of divinity; or

(ii) in which a substantial portion of the functions of the facilities are subsumed in a religious mission; or

(D) construction of new facilities.

(4) USE IT OR LOSE IT REQUIREMENTS-

(A) DEADLINE FOR BINDING COMMITMENTS- Each institution of higher education receiving a subgrant under this section shall enter into contracts or other binding commitments not later than 1 year after the date of the enactment of this Act (or not later than 9 months after the subgrant is awarded, if later) to make use of 50 percent of the funds awarded, and shall enter into contracts or other binding commitments not later than 2 years after the date of the enactment of this Act (or not later than 21 months after the subgrant is awarded, if later) to make use of the remaining funds. In the case of activities to be carried out directly by an institution of higher education receiving such a subgrant (rather than by contracts, subgrants, or other arrangements with third parties), a certification by the institution specifying the amounts, planned timing, and purpose of such expenditures shall be deemed a binding commitment for purposes of this section.

(B) REDISTRIBUTION OF UNCOMMITTED FUNDS- A State higher education agency shall recover or deobligate any subgrant funds not committed in accordance with subparagraph (A), and redistribute such funds to other institutions of higher education that are--

(i) eligible for subgrants under this section; and

(ii) able to make use of such funds in a timely manner (including binding commitments within 120 days after the reallocation).

(e) Application of GEPA- The grant program authorized in this section is an applicable program (as that term is defined in section 400 of the General Education Provisions Act (20 U.S.C. 1221)) subject to section 439 of such Act (20 U.S.C. 1232b). The Secretary shall, notwithstanding section 437 of such Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, establish such program rules as may be necessary to implement such grant program by notice in the Federal Register.

(f) Reporting-

(1) REPORTS BY INSTITUTIONS- Not later than September 30, 2011, each institution of higher education receiving a subgrant under this section shall submit to the State higher education agency awarding such subgrant a report describing the projects for which such subgrant was received, including--

(A) a description of each project carried out, or planned to be carried out, with such subgrant, including the types of modernization, renovation, and repair to be completed by each such project;

(B) the total amount of funds received by the institution under this section and the amount of such funds expended, as of the date of the report, on the such projects;

(C) the actual or planned cost of each such project and any demonstrable or expected academic, energy, or environmental benefits resulting from such project; and

(D) the total number of contracts, and amount of funding for such contracts, awarded by the institution to carry out such projects, as of the date of such report, including the number of contracts, and amount of funding for such contracts, awarded to local, small, minority-owned, women-owned, and veteran-owned businesses, as such terms are defined by the Small Business Act.

(2) REPORTS BY STATES- Not later than December 31, 2011, each State higher education agency receiving a grant under this section shall submit to the Secretary a report containing a compilation of all of the reports under paragraph (1) submitted to the agency by institutions of higher education.

(3) REPORTS BY THE SECRETARY- Not later than March 31, 2012, the Secretary shall submit to the Committee on Education and Labor in the House of Representatives and the Committee on Health, Education, Labor, and Pensions in the Senate and Committees on Appropriations of the House of Representatives and the Senate a report on grants and subgrants made under this section, including the information described in paragraph (1).

(g) Definitions- In this section:

(1) CHPS CRITERIA- The term 'CHPS Criteria' means the green building rating program developed by the Collaborative for High Performance Schools.

(2) ENERGY STAR- The term 'Energy Star' means the Energy Star program of the United States Department of Energy and the United States Environmental Protection Agency.

(3) GREEN GLOBES- The term 'Green Globes' means the Green Building Initiative environmental design and rating system referred to as Green Globes.

(4) INSTITUTION OF HIGHER EDUCATION- The term 'institution of higher education' has the meaning given such term in section 101 of the Higher Education Act of 1965.

(5) LEED GREEN BUILDING RATING SYSTEM- The term 'LEED Green Building Rating System' means the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard referred to as the LEED Green Building Rating System.

(6) SECRETARY- The term 'Secretary' means the Secretary of Education.

(7) STATE- The term 'State' has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(8) STATE HIGHER EDUCATION AGENCY- The term 'State higher education agency' has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).